

TWELFTH DIVISION

[CA-G.R. SP NO. 131447, November 28, 2014]

WILFREDO M. VALENCIA, JR. PETITIONER, VS. NATIONAL LABOR RELATIONS COMMISSION (SECOND DIVISION) INTERORIENT MARITIME ENTERPRISES INC., INTER ORIENT MARITIME ENTERPRISES, INC. - LIBERIA, AND CAPT. JIMMY MILANO, RESPONDENTS.

D E C I S I O N

DIMAAMPAO, J.:

A seafarer's inability to resume his work after the lapse of more than 120 days from the time he suffered an injury and/or illness is not a magic wand that automatically warrants the grant of total and permanent disability benefits in his favor.^[1]

This *Petition for Certiorari*^[2] impugns the Decision^[3] dated 15 May 2013 and Resolution^[4] dated 28 June 2013 of the National Labor Relations Commission in LAC NO. 03-000259-13.

The precursor facts of the case are uncomplicated.

Petitioner Wilfredo Valencia, Jr. (petitioner) was engaged as *Second Mate* by private respondent Interorient Maritime Enterprises Inc. (Interorient), for and behalf of co-private respondent Inter Orient Maritime Enterprises-Liberia, its foreign principal, for the vessel *Captain Harry* under an employment contract nine months. We shall collectively refer to the latter as private respondents. Petitioner's monthly salary was \$1,386.00. After having passed the mandatory pre-employment examination, he joined his vessel of assignment and commenced his job on 28 September 2011.

On 29 February 2012 while on board the vessel, petitioner sustained a fall after a mooring rope accidentally snapped and hit him causing injury to his left wrist. He was brought to Kasral Scheffar Hospital for diagnosis and immediate treatment. Thereafter, he was discharged and repatriated on 3 March 2012. Petitioner was immediately referred to Dr. Lourdes Quetulio, private respondents' company-designated physician, at the YGEIA Medical Center for evaluation and management. The diagnosis given was *Colle's Fracture, Left with Intraarticular Involvement*. He underwent a surgical procedure called *Closed Reduction with application of External Fixation*. Upon discharge, the company doctors monitored petitioner's condition through regular consultation and physical rehabilitation. Several months after undergoing rehabilitation and careful monitoring, he lodged a *Complaint*,^[5] averring, *inter alia*, that his condition did not improve despite medical intervention as he could barely use his left wrist. He lost his holding and gripping power as well as the capacity to lift even light objects. This prompted him to seek consultation with Dr. Misael Jonathan Ticman (Dr. Ticman), an orthopedic surgeon, who issued

his *Medical Report*^[6] declaring petitioner unfit to work as a seaman in any capacity. Having failed to return to work as a seafarer for more than 120 days, petitioner claimed entitlement to permanent and total benefits.

Contrariwise, private respondents maintained that petitioner was not entitled to disability benefits given that its doctors closely monitored his condition for a period of six months until he was given a disability rating of Grade 10 or loss of grasping power for small or large object. They insisted he was only entitled to receive benefits corresponding to the assessment given by the company-designated physician.

After weighing the discordant postures of the parties, the Labor Arbiter rendered a *Decision*^[7] disregarding the finding of the company-designated physician and giving more credence to the opinion of the private physician that petitioner suffered from permanent and total disability. Hence, the Labor Arbiter awarded him full disability benefits and other monetary awards, viz:

"WHEREFORE, premises considered, judgment is hereby rendered ordering respondents Interiorient Maritime Enterprises, Inc. and Interiorient Maritime Ent, Inc., Liberia jointly and severally liable to complainant the following:

1. Disability benefits of Grade 1 in the amount of US\$60,000.00 or its peso equivalent; and
2. Sickwage allowance in the amount of US\$5,544.00 or its peso equivalent;
3. Attorney's fees in the amount of US\$6,554.40.

All other claims are **DISMISSED** for lack of merit.

SO ORDERED."^[8]

The NLRC reversed on appeal the judgment rendered by the Labor Arbiter and upheld the opinion of the company-designated physician ratiocinating that he and a team of specialists meticulously and carefully monitored petitioner's condition for almost six months before they rendered their evaluation. The labor tribunal opined that the lapse of the 120-day period did not automatically render petitioner's condition permanent and total. The NLRC disposed, thusly:

"WHEREFORE, premises considered, the Decision dated January 24, 2012 is **REVERSED**. Respondents are hereby ordered to pay the complainant his disability benefits in the amount of **TEN THOUSAND SEVENTY FIVE (US\$10,075.00)** or its peso equivalent representing complainant's disability grading of Grade 10, sickness allowance in the amount of **FIVE THOUSAND FIVE HUNDRED FORTY FOUR (USD5,544.00)** or its peso equivalent and ten percent (10%) attorney's fees.